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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,160	02/12/2004	Franco Zobebe	J-3920	3767
28165	7590	04/07/2005	EXAMINER	
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			CAMPBELL, THOR S	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/776,160	<b>Applicant(s)</b> ZOBELLE, FRANCO	
	<b>Examiner</b> Thor S. Campbell	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12, 14, 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Rourke et al. (US 6078728).

O'Rourke discloses an evaporator comprising: a housing adapted to receive a bottle with a wick protruding therefrom; an electrical plug assembly coupled to said housing for supporting the evaporator in a wall outlet; a heating device disposed within said housing in electrical communication with said electrical plug assembly; and an adjuster disposed in said housing and adapted to adjust a spacing of the wick relative to said heating device, said adjuster including a retaining/ratcheting mechanism that retains said adjuster in one of a plurality of discreet adjustment settings and gives a tactile feel to the user, further comprising a bottle containing a substance to be evaporated, and a wick having a lower portion disposed in the substance in said bottle and an upper portion protruding from said bottle, wherein said bottle and said wick are detachably received by said housing. See Figs. 4-9.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over

O'Rourke et al. in view of Schroeder et al. (US 5647053).

O'Rourke discloses the claimed invention except a plug deck being rotatable in order to support the evaporator in an upright position in both horizontal and vertical wall outlets, and said plug deck including a locking mechanism which retains said plug deck in one of a plurality of discrete positions relative to said housing.

Schroeder discloses an evaporator comprising: a housing adapted to receive a bottle with a wick protruding therefrom; a heating device disposed within said housing and adapted to apply heat to the wick; and an electrical plug assembly, including a plug deck, coupled to said housing for N supporting the evaporator in a wall outlet and supplying power to said heating device, said plug deck being rotatable in order to support the evaporator in an upright position in both horizontal and vertical wall outlets, and said plug deck including a locking mechanism which retains said plug deck in one of a plurality of discrete positions relative to said housing, and an adjuster disposed within said housing and adapted to adjust a spacing of the wick relative to said heating device, said adjuster including a retaining mechanism that retains said adjuster in one of a plurality of discrete adjustment settings.

It would have been obvious to one of ordinary skill in the art, in view of Schroeder, to modify the device of O'Rourke to include a means to support the evaporator in an upright position in both horizontal and vertical wall outlets, and said plug deck including a locking

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mechanism which retains said plug deck in one of a plurality of discrete positions relative to said housing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thor S. Campbell whose telephone number is 571-272-4776.

The examiner can normally be reached on Mon-Fri 5:30AM-2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TSC



THOR S. CAMPBELL  
PRIMARY EXAMINER